

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 370 of 2007

Date of Decision: 21.03.2007

M/s Indo German Fabs

...Petitioner

Versus

Commissioner of Central Excise, Central Excise Commissionerate,  
Jalandhar and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE M.M. KUMAR**

**HON'BLE MR. JUSTICE RAJESH BINDAL**

Present: Mr. Jagmohan Bansal, Advocate,  
for the petitioner.

Mrs. Daya Chaudhary, Addl. Solicitor General of India,  
for the respondents.

## **JUDGMENT**

**M.M. KUMAR, J.**

This petition filed under Article 226 of the Constitution prays for quashing order dated 14.11.2006 (P-4), passed by the Commissioner (Appeals), Central Excise, Jalandhar-respondent No. 2, whereby though the condition of pre-deposit under Section 35F of the Central Excise Act, 1944, has been waived off, yet, the petitioner has been directing to deposit a sum of Rs. 2,50,000/- towards duty and Rs. Rs. 50,000/- towards penalty. It has been asserted that the present case relates to interpretation of exemption notification No. 15/2002 and during the relevant period exemption notification 14/2002 was applicable in respect of manufacturing of processed

fabrics. Reliance has also been placed on the judgment of this Court in the case of **M/s Prime Textiles v. CCE, Amritsar** (C.W.P. No. 10614 of 2006, decided on 22.8.2006, Annexure P-5), wherein a Division Bench of this Court had set aside the order passed by the Customs Excise and Service Tax Appellate Tribunal, New Delhi, directing the petitioner in the aforementioned case to make pre-deposit and had also issued direction to hear the appeal on merit. In the short reply filed on behalf of the respondents, the aforementioned factual position has not been disputed. The only stand taken is that the view taken in M/s Prime Textiles case (supra) is not applicable to the facts of the present case.

After hearing learned counsel for the parties, we find that there is no substantial difference between the facts of the present case and that of M/s Prime Textiles (supra). Therefore, following the view taken in M/s Prime Textiles case (supra), we allow the petition and set aside the impugned order dated 14.11.2006 (P-4). We also direct respondent No. 2 to entertain the appeal and decide the same on merits without insisting on deposit of a sum of Rs. 2,50,000/- towards duty and Rs. Rs. 50,000/- towards penalty.

The petition stands disposed of in the manner indicated above.

**(M.M. KUMAR)**  
**JUDGE**

**(RAJESH BINDAL)**

**March 21, 2007**

**JUDGE**

P Kapoor